

HECO/CA-IR-31. Ref. CA SOP, page 35 and 36 (beginning with the last paragraph on page 35)

- a. Does the CA share the same concern for system reliability as HECO as articulated in HECO's Statement of Position assuming competitive bidding is adopted in Hawaii?

RESPONSE: The Consumer Advocate places a high priority on system reliability, and would urge each electric utility to take reasonable action to achieve established reliability standards. The Consumer Advocate is not clear what aspect of "system reliability" is the focus of this question. In designing competitive bidding processes, the Consumer Advocate expects that each utility would (1) consider thoroughly potential reliability impacts and (2) introduce appropriate measures to mitigate any concerns, consistent with best practices. Where the utility can demonstrate that reliability would be jeopardized by the utilization of a third-party resource, the Consumer Advocate would support not using a competitive solicitation.

- b. If the CA does not share the same concerns for reliability as HECO, what is the basis for the CA's viewpoint?

RESPONSE: N/A.

- c. Does the CA believe the unique characteristics of the electrical system in Hawaii should be considered/included in the development of the competitive bidding process in Hawaii?

RESPONSE: All characteristics of the electrical system in Hawaii, "unique" and otherwise, should be considered in the development of competitive bidding processes by Hawaii's electric utilities.

HECO/CA-IR-32.

Ref: CA SOP, page 37, middle paragraph.

The CA indicates that "power purchase agreements have evolved over time to better allocate risks". Please provide samples of such contracts that the CA believes meet the requirements it has outlined, and identify all the provisions of such contracts that the CA believes has resulted in the better allocation of risks.

RESPONSE:

The Consumer Advocate has not conducted a survey of sample contracts that it would offer as evidence of "good" and "bad" allocations of risk. In the quarter century since PURPA's introduction, the national experience in competitive bidding for capacity resources has evolved considerably, as communicated in both the Consumer Advocate's and the HECO Companies Statements of Position. Likewise, the level of experience and sophistication for buyers and sellers of capacity resources is much advanced. The Consumer Advocate is confident that both electric utilities and those who would sell them capacity resources have over that period developed contracts that better apportion risks and rewards. Here, the Consumer Advocate emphasizes that it is the totality of a particular contract more than its individual provisions that achieves this result. The improved contracts reflect the experience from previous contracts.

The Consumer Advocate notes that the movement away from prescribed avoided cost schedules (e.g., with escalating prices) and the recent movement toward refinement of credit requirements and other contract performance terms are examples of improvements that have been, and are being, achieved. In

addition, HECO's recent application seeking approval of Amendment Numbers 5 and 6 to its purchased power contract with Kalaeloa included several provisions that have improving unit performance as their focus. These provisions serve to shift outage risks away from the utility and its customers.

HECO/CA-IR-33. **Ref: CA SOP, last paragraph on page 37.**

- a. Please list all the factual circumstances (and provide examples of actual instances) in which competitive bidding should not be undertaken.

RESPONSE: The Consumer Advocate is unable to provide a comprehensive list of the factual circumstances in which competitive bidding should not be undertaken because such determination will depend on the facts specific to the resource need, which will be determined by each utility in the IRP process. The Consumer Advocate did consider a number of factors that occasionally might diminish the value of competitive bidding in specific circumstances, as presented in Section II.C. of its Statement of Position. If such factors render a given competitive solicitation inadvisable, the utility should present them to the Commission to rebut the presumption that the utility should design and issue an RFP.

- b. Are there other factors than size of incremental capacity requirements and availability of sites and critical infrastructure that rebut the presumption of competitive bidding as proposed by the CA?

RESPONSE: Other factors, such as the urgency in which a resource is needed may affect the decision to conduct a competitive bid process, as discussed in Section II.C. of the Consumer Advocate's Statement of Position. The Consumer Advocate accepts that there may be other factors that the Commission reasonably might accept as sufficient to rebut the proposed presumption of competitive bidding;

however, the Consumer Advocate has not attempted to identify all such factors. Again, where the utility is able to demonstrate that such factors would render a given competitive solicitation inadvisable, the utility should present them to the Commission to rebut the presumption that the utility should design and issue an RFP.

- c. If the response to part b is "yes", please identify and describe all such factors.

RESPONSE: Please see the response to Part b. above.

HECO/CA-IR-34.

Ref: CA SOP, page 39.

- a. Please identify all utilities that have made their sites available for other than turnkey proposals. For each utility identified, please provide a copy of the RFP where the utilities made their sites available for other than turnkey proposals.

RESPONSE:

The Consumer Advocate has not conducted a study of utilities that have made their sites available for other than turnkey projects. As noted in its Statement of Position at 39, the Consumer Advocate understands that the Kauai Electric Division made one of its sites available to third-party developers in its 1996 RFP process. The Consumer Advocate also is aware that the Long Island Power Authority ("LIPA") has issued an RFP offering to make one of its sites available to a third-party supplier. LIPA issued an RFP in February 2005 offering to allow DG (i.e., fuel cell) developers to locate at its located at West Babylon Substation. The Consumer Advocate notes that LIPA face challenges in acquiring generation resources to serve customers in densely populated portions of their service territories, where sites for new generation might be quite limited.

- b. Would the CA agree that offering utility sites for third-parties could have negative implications on the potential benefits of competitive bidding such as not encouraging creative options, and biasing the process against some types of resources (i.e., wind, geothermal, etc.)?

RESPONSE:

There may circumstances under which sites are limited and significant benefits may be foreseeable if a given electric utility

makes its site (or sites) available to third-party developers. In such case, other “creative” options may or may not be discouraged, depending on the specific circumstances of the solicitation. If the electric utility believes that such action would be problematic, it should so indicate and explain itself. If its arguments are persuasive, the Consumer Advocate would support the utility in its position.

HECO/CA-IR-35. **Ref: CA SOP, page 40.**

- a. Please explain in detail the meaning of the first full sentence at the top of the page, "In the absence of real competition, the utility itself should not be able to put in a power plant bid that deviates from its expected cost". Please fully explain the basis for the CA's statement.

RESPONSE: Competitive bidding is a procurement mechanism that serves the public interest. In order to achieve benefits for Hawaii, competitive bidding must make new resources available to electric utilities that represent the best mix of price and non-price attributes. The term "real" competition means that competitive bidding processes must include credible entities that submit credible, cost-competitive proposals. By way of example to the contrary, a "real" competition would not exist if the host electric utility were to hold a substantial competitive advantage over other resource providers, such that it could bid a price that would permit it to recover its costs and far more than a fair return. In such instance, the competition would not be "real" and the result would not benefit the public interest.

Competitive bidding should not be seen as a mechanism by which electric utilities can pursue profits – at ratepayers' expense – that exceed those that they would receive under traditional cost of service regulation. Therefore, it is the Consumer Advocate's position that the project proposals of an electric utility must reflect its costs.

- b. What does the CA mean by “real competition”. As part of the CA’s response, please provide an example of a situation where there is “real competition” and where there is not “real competition”.

RESPONSE: Please refer to the response to Part a. above.

- c. What does the CA mean by “its expected cost.”

RESPONSE: The Consumer Advocate recommends that, where an electric utility proposes to pursue its own resource proposal, traditional cost-based regulation should be employed. In participating in its own competitive bidding processes (with its “backstop” proposal or otherwise), the utility should be expected to “bid” its expected costs, i.e., the costs that it would seek to recover under traditional cost-of-service ratemaking if its project proposal were to be approved by the Commission (i.e., for inclusion in its integrated resource plan).

- d. Please identify all jurisdictions that have this same condition concerning not being able to put in a power plant bid that deviates from its expected cost. As part of this response, please provide a copy of the pertinent law, rule, regulation or other authority that implemented such a condition.

RESPONSE: The Consumer Advocate has not conducted a survey of all jurisdictions regarding the matter of being able to put in a power plant bid that deviates from expected cost. For reasons discussed in the response to Part a. above, the Consumer Advocate maintains that an electric utility’s “bid” price in its competitive

bidding processes should reflect its expected costs. The Consumer Advocate notes that this approach is implicit in the Commission's current PURPA rules (i.e. as interpreted by the electric utilities); where competitive suppliers do not come forward with proposals that are below an electric utility's avoided costs, the utilities are expected to themselves respond to unaddressed needs and to recover costs according to established cost-of-service principles.

HECO/CA-IR-36. **Ref: CA SOP, page 41.**

- a. Please list and explain all the costs that the CA means by “direct cost impacts associated with competitive bidding”.

RESPONSE: In concept, the term “direct cost impacts associated with competitive bidding” is intended to refer to costs that are specifically associated with the effort to design and implement the competitive solicitation. The Consumer Advocate is unable to list and explain all costs since the costs will be situation-specific.

- b. What is the CA’s estimate of the direct cost impacts associated with competitive bidding in Hawaii? Please provide the basis for the CA’s estimate.

RESPONSE: Please see the response to Part a. above.

- c. If the expected costs of implementing such a process exceed the expected benefits (i.e., savings to customers), would the CA recommend that a competitive bidding process be implemented? Please fully explain the CA’s response.

RESPONSE: No. It is, however, the Consumer Advocate’s position that a competitive bidding process should be implemented unless a utility (or any party) can demonstrate that the costs of implementing such a process likely would exceed the benefits (considering both costs and benefits broadly). In other words, there should be a presumption in favor of it. Where it is demonstrated that the expected costs of implementing such a process exceed the expected benefits, the Consumer Advocate would recommend that

a competitive bidding process not be implemented (all else being equal).

HECO/CA-IR-37. **Ref: CA SOP, page 41, last paragraph on the page.**

- a. Please clarify, is it the CA's position that all source bidding should be required?

RESPONSE: It is the Consumer Advocate's position that all source bidding should be implemented whenever appropriate. That is, all source bidding should be required where a utility's needs justify such an approach and there is no cause to exclude a particular resource or set of resources from the solicitation.

Note that the last paragraph of page 41 does not focus on all source bidding. Rather, the statement is that all resource needs should be met through competitive bidding, unless there are clear reasons to do otherwise.

- b. Please identify all the reasons that the CA believes would be included in the phrase "clear reasons to do otherwise".

RESPONSE: The reasons referred to will depend on the specific facts pertaining to the utility's identified need for resources, which will be determined in the development of each utility's IRP. It would be impossible to identify, at this time, the reasons for not conducting an all-source solicitation without knowing the specific resource needs of the utility. As one example, the Consumer Advocate can foresee that, from time to time, an electric utility's needs might be such that the only resources that should be procured would be those that would satisfy its renewable portfolio standard ("RPS"). In

such circumstances, it would be appropriate to seek only resources that qualify for the RPS.

HECO/CA-IR-38. **Ref: CA SOP, page 42.**

- a. Does the CA believe that the risk of litigation is minimized or increased if rules are not established?

RESPONSE: The Consumer Advocate believes that the risk of litigation over the results of competitive bidding processes can be reduced if rules are established that are consistent with its recommendations on how to implement competitive bidding processes in Hawaii, as presented in Section III. of its Statement of Position. The Consumer Advocate's recommendations that are particularly important relative to minimizing the risk of litigation are discussed in Section III.H. of its Statement of Position. Electric utilities should act to develop and implement competitive bidding processes that are consistent with the solicitation guidelines advanced by the Federal Energy Regulatory Commission (FERC's four principles which address transparency, definition, evaluation and oversight). The Consumer Advocate believes that where these guidelines are embraced, each bidder will recognize that an effort is being made to ensure fairness in the process.

- i. Please fully explain the CA's response and provide the basis for such response.

RESPONSE: Please see the response to Part a. above.

- b. What is the CA's definition of a "solid foundation for competitive bidding in Hawaii"?

RESPONSE: For purposes of this proceeding, the Consumer Advocate defines a "solid foundation for competitive bidding in Hawaii" as the actions that the Commission should take to ensure that competitive bidding can occur in a manner that will maximize its benefits to Hawaii. These actions are described in detail in Section III of the Consumer Advocate's Statement of Position.

- c. Please identify and fully explain the parameters of this "solid foundation".

RESPONSE: Please see the response to Part b. above.

- d. Please fully identify and explain the "enhanced" benefits that will result if the Commission "sets a solid foundation for competitive bidding in Hawaii".

RESPONSE: The Consumer Advocate recognizes that competitive bidding processes that are not ideally designed and implemented may yield benefits, compared to a scenario in which no competitive bidding process occurs. In general terms, the benefits that are expected to be realized is the procurement of a lower cost resource, with better environmental performance, etc. The statement on page 42 of the Consumer Advocate's Statement of Position is intended to emphasize that such benefits can be improved if competitive bidding processes are properly designed and implemented. The

recommendations presented in Section III. of the Consumer Advocate's Statement of Position are intended to ensure that effective competitive bidding processes are designed and implemented by Hawaii's electric utilities.

HECO/CA-IR-39. **Ref: CA SOP, page 43, second paragraph.**

- a. Please provide a list of all public utility commissions that have implemented competitive bidding but have no rules specific to competitive bidding.

RESPONSE: The Consumer Advocate observes that the terms “integrated resource planning rules” and “competitive bidding rules” tend to be used somewhat interchangeably. There are public utility commissions whose IRP rules (1) require competitive bidding (such as was the case in Maine and Massachusetts before retail access was introduced), but (2) say little or nothing about how that competitive bidding is to be conducted. The Consumer Advocate has not conducted a survey of the states to determine which have implemented competitive bidding but have no rules specific to competitive bidding.

- b. Please provide a list of all public utility commissions that established rules specific to competitive bidding before implementing a competitive bidding process.

RESPONSE: Please see the response to Part a. above.

HECO/CA-IR-40. **Ref: CA SOP, the end of page 43 and beginning of page 44.**

- a. Is it the CA's position that the referenced "best practices" be submitted to the PUC for approval prior to a solicitation? If the answer is anything other than an unqualified "yes", please fully explain the CA's response.

RESPONSE: The Consumer Advocate recommends that each utility submit its proposed competitive bidding design and RFP documentation to the Commission for review as an informational filing. However, the Commission should not initiate proceedings to investigate such a filing unless an interested person makes a prima facie case that such investigation is warranted. The Consumer Advocate anticipates that, where competitive bidding design and implementation processes are coordinated with members of an IRP Advisory Group, or occur with the concurrence of IRP proceeding participants, no Commission investigation would be necessary.

- b. If the answer to part a is "yes", please fully explain how the process would be streamlined to provide flexibility in developing and implementing solicitations?

RESPONSE: Please see the response to Part a. above.

- c. If the answer to part a is "no", how will the utility be assured that the "best practices" it has identified will be acceptable to the PUC in the demonstration the CA proposes at the top of page 44.

RESPONSE: Please see the response to Part a. above.

- d. Will a determination that the utility has met proposed “best practices” requirement also be considered an authorization to include in the appropriate rate base all costs associated with the competitive bidding process, including but not limited to, developing and implementing “best practices,” developing the solicitation(s), costs of accepted bids, and utility oversight of the accepted bidder during contract implementation? Please fully explain the CA’s response.

RESPONSE: Contracts signed with third-party providers should be subject to review before the Commission, and the associated costs would be treated pursuant to established Commission practice. Presumably, those bidding in a Commission-accepted RFP will have a measure of confidence that the contract with the successful bidder (or bidders) in the RFP will be approved for cost-recovery by the Commission.

The Consumer Advocate assumes that the other costs that a utility incurs in the course of meeting its service obligations, including those described above, would be addressed in rate proceedings pursuant to established Commission practice.

- e. Please list all utilities that have a competitive bidding process that is the same as the CA’s recommended “best practices” proposal. For each utility identified, please provide a copy of the most recent utility submission to the public utility commission that was the utility’s effort to demonstrate that the utility satisfied the “best practices” requirement.

RESPONSE: The Consumer Advocate has not conducted a survey to determine which utilities are explicitly required to use “best practices” in implementing competitive bidding processes, nor has it acquired

copies of such submissions to public utility commissions. It is the Consumer Advocate's view that, in acting prudently, an electric utility would employ "best" practices in designing and implementing competitive bidding processes. The Consumer Advocate is hard-pressed to foresee circumstances under which an electric utility reasonably would ignore approaches routinely used by other utilities, or would use "sub-optimal" practices in designing and implementing a competitive bidding process.

Rather, the Consumer Advocate anticipates that the design and implementation of competitive bidding processes would require at least a modicum of inquiry (directly by the electric utility or through its expert consultants) into the latest and best approaches to addressing different types of resource needs.

HECO/CA-IR-41. **Ref: CA SOP, page 44, 8 bullet points listed.**
For each bullet point listed, provide the CA's estimate of the time required to complete each step. As part of the response, provide (1) the basis for the CA's time estimate for each step, and (2) all the intermediate steps necessary to complete each bullet point.

RESPONSE: No further regulatory process – and thus no associated time – is needed to implement competitive bidding in Hawaii. Competitive solicitations already have been conducted by HECO, the KIUC's predecessor, and by HECO's renewables affiliate, Renewable Hawaii, Inc.

Under the assumption that the Commission accepts the Consumer Advocate's recommendations contained in Part III of its Statement of Position, competitive bidding could be implemented in the time that it would take for the Commission to draft an order. This is not to say that to complete the process, select the supplier, and possibly negotiate a contract if the provider is a third-party would be completed in the time that it would take to draft order. Rather, the processes necessary to implement competitive bidding could occur that quickly.

The Consumer Advocate notes that there may be value in further discussion among stakeholders and/or further proceedings to determine an optimal approach for defining the role of the host utility vis-à-vis its own competitive bidding process. However, where Hawaii's electric companies have immediate needs for incremental capacity resources (as is HECO's claim in its March

2005 Adequacy of Supply report), competitive bidding could proceed immediately under an interim ruling on the role of the host utility. An application and Commission issuance of such interim ruling could be completed within four weeks (particularly if the Commission treats any such application as not precedent setting and is generally consistent with the Consumer Advocate's recommended guidelines), and could readily occur while the subject electric utility is in the process of establishing the other design features of its RFP.

HECO/CA-IR-42. Ref: CA SOP, page 45, second paragraph.

- a. Please identify and fully explain all circumstances in which competitive bidding may not be practical.

RESPONSE: The Consumer Advocate has not conducted a study of all circumstances in which competitive bidding may not be practical. The Consumer Advocate's views on the factors that occasionally might diminish the value of competitive bidding in specific circumstances are presented in Section II.C. of its Statement of Position.

- b. Please identify and fully explain all the circumstances in which competitive bidding would be contrary to the public interest.

RESPONSE: The Consumer Advocate has not conducted a study of all circumstances in which competitive bidding may be contrary to the public interest. The Consumer Advocate's views on the factors that occasionally might diminish the value of competitive bidding in specific circumstances are presented in Section II.C. of its Statement of Position.

HECO/CA-IR-43. **Ref: CA SOP, pages 47-49.**

On pages 47-49 of its SOP, the CA recommends a sequence of activities that would lead to implementation of a competitive bidding process.

- a. Please provide a timeline for the process suggested beginning with the initiation of the IRP as described in the first bullet on page 47 to the last bullet on page 49.

RESPONSE: The Consumer Advocate has not prepared a timeline for the activities that comprise basic activities in each electric utility's IRP because these activities should be performed on an on-going basis as a normal business activity. It is difficult to imagine that the sequence of planning activities was not routinely performed before the Commission issued the IRP Framework. Furthermore, subsequent to the adoption of the IRP Framework by the Commission, the utilities should be including interested stakeholders in the planning process as required in the Framework. Commission rules govern implementation of the public participation portion of the IRP proceedings and review of the IRP filing before the Commission; the duration of these two activities can be expected to vary by utility, and also be dependant on the range of issues that require resolution. The Consumer Advocate emphasizes that the foregoing activities should occur, regardless of the mechanism by which the utility responds to any identified resource need.

The fifth bullet addresses the implementation of competitive bidding processes. The time required to design and implement

competitive solicitations likewise can be expected to vary by utility, and depend on the range of issues that require resolution. Thus, it is difficult to generalize precisely, the time required is probably on the order of months. As indicated on page 35 of its Statement of Position, the Consumer Advocate acknowledges that competitive bidding through RFPs can take time to implement. If proper planning is done, however, the utility should be able to procure the resource when needed, as has been done in the past by HECO and KIUC.

The final bullet addresses changes to an approved IRP Implementation Plan, as may be necessitated by changing conditions. Each electric utility should be expected to monitor its situation, and to respond to any such changes. The Consumer Advocate has not estimated the time required to respond to changes, since it is not known what such changes may be and the time required to respond to the changes will vary from case to case. Each utility must be expected to take prudent action that is in concert with to its specific circumstances.

- b. Please provide the timeline, by task, as identified in the bullets on pages 47-49.

RESPONSE: Please see the response to Part a. above.

HECO/CA-IR-44. **Ref: CA SOP, page 48, first paragraph at the top of the page.**

- a. Under the CA's proposal, would bidders be required to submit bids based on the specific unit included in this phase of the IRP?

RESPONSE: Bidders should submit bids based on the requirements of an electric utility's RFP and associated evaluation criteria; these, in turn, should reflect a utility's need for incremental resources. The paragraph cited suggests that the electric utility would identify its plan (potentially including one or more supply- and/or demand-side resources) for responding to the need should the competitive bidding process not yield attractive options.

- b. Could the host utility select a unit different than the type included in this phase of the IRP?

RESPONSE: Yes, under some conditions. Please see the response to Part a. above.

HECO/CA-IR-45. **Ref: CA SOP, pages 47-48, bullet at the bottom of page 47 to the top of page 48.**

The CA proposes that the utility's backstop proposal (in the IRP) would essentially become the utility's bid in the competitive bidding process.

- a. Under this proposal, is it the CA's position that the utility would have the opportunity to "fine tune" its pricing prior to receipt of the bids through the competitive bidding process? Please fully explain the CA's response.

RESPONSE: If the utility is proposing to advance a specific project proposal (which may include a backstop proposal to address an immediate need) through the RFP, then its cost proposal should be treated as with that of any bidder. It could be modified up until the point that bids are due.

If the RFP is seeking resources that would be owned and operated by third-parties in response to anticipated future needs, where no immediate action is necessary by the utility to preserve system reliability, then the costs of the utility proposal might set an avoided cost ceiling price in the RFP. In such case, the Consumer Advocate anticipates that the ceiling price would be fixed throughout the course of the solicitation.

- b. Is it the CA's position that the utility be authorized to make changes from the backstop proposal? (e.g., if the backstop were a combustion turbine alone, could the utility submit a competitive bid for a smaller CT combined with DSM?) If the response is anything other than an unqualified "yes", please fully explain the CA's response and identify the situations where the utility would be authorized to make changes from the backstop proposal.

RESPONSE: The electric utility should advance proposals consistent with a least-cost resource plan. For example, if the utility's proposal is to build a smaller combustion turbine coupled with a DSM program and the proposal is less expensive and has equivalent reliability, this would of course be a proper unit to "bid." But this also means that it is the proper backstop.

HECO/CA-IR-46. **Ref: CA SOP, page 48.**

The CA states that stakeholder (i.e. public participation) process in the IRP would occur after the utility has provided a detailed review of its needs, its proposed resources, and the mechanisms by which it proposes to procure those resources.

a. Is it the position of the CA that the utility develop the forecasts, screen and characterize supply-side and demand-side resources, and develop a draft IRP plan prior to initiating the Stakeholder process?

RESPONSE: Each electric utility should (1) develop the forecasts (i.e., peak load and contributions from existing and newly committed supply- and demand-side resources) and should perform the other analyses that would enable it to accurately and effectively characterize its need for incremental capacity and energy resources, and (2) develop its plan (conceptually) as to how it would meet its service obligations under the assumptions that no other resource providers come forward. These are basic utility functions that must routinely be conducted regardless of the resource procurement method to be utilized.

Prior to beginning the public participation phase of an IRP process, an electric utility would have to document its need and resource plan to a degree sufficient to communicate such need to the IRP participants.

- b. If the answer to part a is “yes”, how would the utility mitigate the risk that stakeholders would disagree with forecasts, and supply-side and demand-side resource information used by the utility to develop the draft IRP plan, which would take significant amounts of time to resolve.

RESPONSE: The Consumer Advocate anticipates that an electric utility will have to provide basic information to participants in the public participation phase of its IRP, and would explain the assumptions and decision processes behind its characterization of need and its selected resource plan.

Clearly, achieving a consensus through collaboration in the public participation phase of its IRP would benefit the utility and stakeholders. However, stakeholders may disagree regarding assumptions, calculations and recommendations on need and the resource plan advanced by the utility. If a consensus cannot be achieved, the Commission’s IRP Framework makes clear that the utility is responsible for the components of the IRP filing that it would subsequently submit to the Commission.

- c. If the answer to part b is “no”, then please explain how the utility would obtain stakeholder input to develop the information and determine the assumptions required to identify its needs, proposed resources, and the mechanisms by which it proposes to procure the resources, prior to initiating the stakeholder process.

RESPONSE: The public participation phase of the IRP process creates a ready opportunity for an electric utility to obtain stakeholder input to develop the information and determine the assumptions required to

identify its needs, proposed resources, and the mechanisms by which it proposes to procure the resources. Such input runs the risk of being meaningless if presented “in a vacuum;” that is, before essential information regarding need and proposed resources is provided to stakeholders.

HECO/CA-IR-47. **Ref: CA SOP, page 48, footnote 26.**

Please identify and fully explain all the situations where the CA believes it would be appropriate for a utility to seek "alternative approaches" to competitive bidding.

RESPONSE: The Consumer Advocate is unable to identify and explain all situations where alternative approaches are appropriate because such situations are dependent on the facts and circumstances under consideration. Thus, to provide the appropriate flexibility and ensure reliability, the Consumer Advocate recommends that alternate approaches to competitive bidding be implemented whenever the Commission accepts a demonstration by an electric utility (or any party) that competitive bidding would be contrary to the public interest. The factors that occasionally might diminish the value of competitive bidding in specific circumstances are discussed in Section II.C. of the Consumer Advocate's Statement of Position.

HECO/CA-IR-48.

Ref: CA SOP, bottom of page 48 to the top of page 49.

Please refer to the bottom of page 48 and the top of page 49 with regard to the CA's suggestion for implementing a competitive bidding process.

- a. Please describe in detail the CA's suggested approach and process for undertaking the evaluation of the bids received.

RESPONSE:

The Consumer Advocate recommends against prescribed approaches and processes for bid evaluation because (1) the approach and processes for evaluating each bid may vary depending on the resource need being considered, and (2) best practices in bid evaluation may evolve with time. Therefore, the Consumer Advocate has no detailed recommendations in this regard. The Consumer Advocate recommends that each electric utility should be expected to design bid evaluation processes that are specific to the circumstances of each competitive solicitation, and in keeping with "best practices" in the industry.

- b. Should price and non-price criteria be included in the evaluation? Please explain.

RESPONSE:

Please see the response to HECO/CA-IR-18, Part b.

- c. How should they be included in the evaluation and selection of bids? Please explain.

RESPONSE:

Please see the response to Part a. above.

- d. With regard to the price evaluation criteria, does the CA believe that all costs to customers associated with the proposal (i.e., direct costs bid, transmission

costs/interconnection costs, system operational costs, and balance sheet impacts associated with PPA debt obligations) should be included in the evaluation of bids?

RESPONSE: The Consumer Advocate believes that all costs specific to a given proposal should be considered in evaluating that proposal. By this we mean, generally, both the price offered by the bidder and any costs that the utility would not incur if the bidder's project were not pursued.

- e. If the CA does not believe such costs should be included in the evaluation of bids, please provide support for such a conclusion.

RESPONSE: Please see the response to Part b. above.

HECO/CA-IR-49. **Ref: CA SOP, page 50.**

In its discussion of adopting a method for determining avoid cost that is consistent with all-source competitive bidding, the CA asserts that the Commission should follow "other states." What state(s) does the CA propose the Commission should follow in establishing avoided cost?

RESPONSE: In implementing PURPA, many states adopt the view that a utility's avoided costs effectively are determined by the costs of resource options that are readily available through competitive markets. Such competitive markets can take the form of wholesale power markets in which electricity is traded as a commodity, or the markets in which independent power producers are available to compete to fill incremental resource needs.

This approach has important implications for a utility and its customers. First, it means that when an electric utility conducts a competitive bidding process under an avoided cost ceiling price that was calculated as a function of the utilities avoided generating unit(s), the utility does not have to accept every bid for QF power that comes in below the ceiling price in order to comply with state PURPA rules.

Second, it means that a utility should compare (directly through and RFP, or otherwise) any resource procurement that it is considering to options that are readily available through competitive markets. Such approach has the potential to yield substantial savings to electric utilities and their ratepayers. The Consumer Advocate has in the past expressed concern that Hawaii's electric

utilities have ignored readily available market options in evaluating the cost-effectiveness of new generating projects. Such concerns were advanced in the Consumer Advocate's Statements of Position in Docket No. 04-0346 regarding HELCO's purchase from the Apollo windfarm facility, and in Docket No. 04-0365 regarding MECO's purchase from the Kaheawa windfarm facility.

The Consumer Advocate has not conducted a review of all states that adopt the recommended approach, although experience dictates that it is widely spread. The Consumer Advocate identifies Maine and Massachusetts as states that allow market alternatives to determine avoided costs under their rules implementing PURPA. Importantly, FERC also accepts this interpretation under its PURPA rules.

HECO/CA-IR-50. **Ref: CA SOP, page 50.**

- a. For each of the states listed in the response to HECO/CA-IR-49 above, please provide a description of how additional transmission costs incurred as a result of new generation are incorporated in avoided cost.

RESPONSE: As stated in response to HECO/CA-IR-49, the Consumer Advocate has not conducted a review of how additional transmission costs incurred as a result of new generation are incorporated into utility avoided cost calculations.

Clearly, incremental transmission investment should be considered in comparing resource options. In comparing resource options, costs should be assigned to a particular option where costs to (1) connect a particular generating facility to the utility's transmission grid, and (2) improve the utility's transmission grid can be solely attributed to that resource option. Where improvements to a utility's transmission grid would be needed for other reasons (e.g., to supply growing loads), comparative analyses should reflect some reasonable sharing of transmission investment costs.

If (1) an electric utility bases its avoided costs on market options, as the Consumer Advocate recommends in its response to HECO/CA-IR-49, and (2) the utility is seeking to evaluate a project proposal outside of an RFP in which incremental transmission costs are considered in comparing bids, the utility would be expected to develop some reasoned estimate of the incremental transmission investment that it would avoid through the proposed project.

- b. Which of the methodologies described in the response to part (a) does the CA propose?

RESPONSE: Please see the response to Part a. above.

- c. If the CA does not propose any of the methodologies described in the response to part (a), please provide the CA proposal to address additional transmission costs incurred as a result of new generation.

RESPONSE: Please see the response to Part a. above.

- d. If transmission costs are not proposed to be addressed in the avoided cost calculation, who does the CA propose should pay for the additional transmission costs and why?

RESPONSE: Please see the response to Part a. above.

HECO/CA-IR-51. **Ref: CA SOP, page 50.**

- a. For each of the states listed in the response to HECO/CA-IR-49 above, please provide a description of how additional balance sheet restructuring costs incurred as a result of the debt or debt-like features of long-term purchase power agreements are incorporated in avoided cost.

RESPONSE: As stated in response to HECO/CA-IR-49, the Consumer Advocate has not conducted a survey of how all states treat the potential costs of debt that may be “imputed” by credit rating agencies as associated with purchased power. The Consumer Advocate understands that California allows consideration of such costs in evaluating resource options, while Georgia expressly excludes it. The Consumer Advocate has not determined whether or how California utilities incorporate imputed debt into their avoided costs.

- b. Which of the methodologies described in the response to part (a) does the CA propose?

RESPONSE: Please see the response to Part a. above.

- c. If the CA does not propose any of the methodologies described in the response to part (a), please provide the CA proposal to address additional balance sheet restructuring costs incurred as a result of the debt or debt-like features of long-term purchase power agreements.

RESPONSE: The Consumer Advocate’s position is that all legitimate incremental costs should be considered in comparative analyses of various resource options. If the Company believes that it will incur incremental costs in relation to a transaction to acquire a particular

resource, the burden should be on the utility to demonstrate that the costs are real, quantifiable and attributable to the particular resource transaction.

- d. If balance sheet restructuring costs are not proposed to be addressed in the avoided cost calculation, who does the CA propose should pay for the additional balance sheet restructuring costs and why?

RESPONSE: Please see the response to Part c. above.

HECO/CA-IR-52. **Ref: CA SOP, top of page 50.**

- a. Please provide specific procedures that the CA would adopt to provide stakeholders a “more meaningful role” in the IRP process than they already have?

RESPONSE: Section III. of the Consumer Advocate's Statement of Position provides a discussion of the changes recommended to set a solid foundation for the implementation of competitive bidding in Hawaii. Sections III.B. and III.D suggest improvements to the IRP process to enable stakeholders to play a more meaningful role.

The Consumer Advocate's recommendations respond to the fact that, in recent IRP proceedings, it has found itself in need of basic information regarding the specific circumstances of the utility's existing resource portfolio, the factors affecting the utility's true needs for incremental resources, the resource additions that the utility actually intends to pursue, etc.

- i. What additional specific changes, if any, in the IRP process are necessary to enhance the stakeholder role in shaping a consensus regarding the utility's “needs.” In answering this information request, please delineate the “needs” to which the CA refers.

RESPONSE: The Consumer Advocate uses the term “needs” broadly to describe the resources characteristics that the utility should pursue to achieve desired improvements to its resource portfolio. In this context, a utility's needs may take the form of additional capacity resources, low cost energy, energy savings, emissions reductions, hedges against the cost of imported oil, etc. Sections III.B and

III.D. of the Consumer Advocate's Statement of Position contains its specific recommendations to improve both the process and the flow of information.

- ii. What additional specific changes, if any, in the IRP process are necessary to enhance the stakeholder role in shaping a consensus regarding the resources necessary to best respond to such needs?

RESPONSE: It is the Consumer Advocate's view that consensus among stakeholders in IRP proceedings will best be achieved if electric utilities are forthcoming with basic information regarding the systems, their needs, and their plans for addressing those needs. Furthermore, the utilities must establish at the onset of their IRP proceedings the goals and objectives and quantify the targets that are to be achieved by amending their resource portfolios. This is to ensure a clear understanding of the actions that are being considered as necessary to fulfill a resource need. This would also require the utility to provide detailed information as to where the utility is at the present time and what the utility wants to achieve.

- iii. What procedures would be necessary in the event consensus could not be reached among stakeholders?

RESPONSE: The Commission's IRP Framework describes the processes by which disputes involving an electric company's integrated resource plan may be resolved.

- b. How does the CA's position that stakeholders have a "more meaningful role" in selecting a procurement strategy work in the context of circumstances where competitive bidding may not be appropriate? (See CA SOP Section II.C beginning on page 34.)

RESPONSE: The Consumer Advocate anticipates that during the public participation phase of the development of an electric utility's IRP, stakeholders would have the opportunity to achieve agreement regarding (1) whether factors exist that mitigate against competitive bidding in response to specific resource needs, and (2) how best to procure needed resources when competitive bidding is not viewed the best approach.

HECO/CA-IR-53. **Ref: CA SOP page 50, second paragraph.**

- a. What cost elements related to competitive bidding should be included in the calculation of avoided costs in Hawaii?

RESPONSE: The Consumer Advocate does not have a detailed proposal for the calculation of avoided costs at this time or the process for achieving such result; neither is one necessary for the Commission to establish "as a matter of policy" that competitive bidding processes "will define what is avoided." The essential point presented in Section III.C. of its Statement of Position, is that electric utilities should not ignore the costs of resources available through competitive markets in establishing its avoided costs. Where an electric utility needs additional resources, it should either issue an RFP and use the price of the winning bid to establish avoided costs, or it should take notice of recent transactions of similar nature as a proxy in developing its avoided costs.

The "cost elements" to be included in the calculation would include all costs "types" that may be avoided through particular transaction. This may include transmission and distribution investments in some instances.

- i. The incremental costs associated with implementing the CA's proposed amendments to the IRP process?

RESPONSE: It is not possible to identify the incremental costs associated with implementing the Consumer Advocate's proposed amendments to the IRP process because such costs are dependent on the specific

resource for which bids are to be procured. The process by which the Companies execute the IRP Framework needs improving, whether or not competitive bidding is introduced in Hawaii.

- ii. The cost of developing and implementing “best practices” as proposed by the CA?

RESPONSE: The incremental costs of designing and implementing an RFP and associated documents cannot be determined at this time because such costs are dependent on the specific resource for which bids are to be procured. The costs should be considered in determining whether to proceed with competitive bidding.

- iii. The incremental costs associated with preparing bid packages/solicitations under competitive bidding?

RESPONSE: Please see the response to Part ii. above.

- iv. The costs of an “independent observer?”

RESPONSE: Please see the response to Part ii, above. Also see the response to HECO/CA-IR-20c.

HECO/CA-IR-54. **Ref: CA SOP, page 50.**

The CA states "In implementing a competitive bidding policy, the Commission should establish competitive bidding as the basis for establishing avoided costs in Hawaii, where the acquisition of long-term contracts is at issue. Once the Commission has adopted competitive bidding as its preferred approach to resource procurement, the electric utilities should incorporate competitive pricing principles into their PURPA contracts and other resource acquisition activities."

- a. Please list and fully explain the process that the CA believes is necessary to establish competitive bidding as the basis for establishing avoided costs in Hawaii. As part of the response please identify the specific changes/amendments to statutes, rules, and/or regulations that would be necessary.

RESPONSE: The Commission can establish competitive alternatives as the basis for establishing avoided costs in Hawaii simply by stating clearly this policy. With this information, Hawaii's electric utilities and other participants in IRP proceedings and associated resource procurement proceedings will be able to put this policy into action by (1) calculating avoided costs based on information on resource options available to electric utilities in competitive markets (such cost information might replace, for example, avoided costs capacity and energy costs calculated based on existing utility generation), and (2) identifying the winning bid as the avoided facility when RFPs are issued (thereby allowing each RFP to specify a utility's purchase obligations under the Commission's existing PURPA rules).

- b. Please fully explain what the CA means by "the electric utilities should incorporate competitive pricing principles into their PURPA contracts and other resource acquisition activities."

RESPONSE: Please see the response to HECO/CA-IR-49.

HECO/CA-IR-55. **Ref: CA SOP, page 51.**

What is the benefit to stakeholders of knowing a forecast of production costs for each generating unit?

RESPONSE: If IRP stakeholders have a unit-by-unit forecast of production costs and energy output for the units in a utility's existing supply portfolio, it will enable them to develop a view as to which units may be inefficient relative to market alternatives, and thus potential candidates for economic replacement.

HECO/CA-IR-56.

Ref: CA SOP, page 53

The CA states that the Commission should prescribe that each electric utility must file an annual update to its 5-year Implementation Plan.

- a. If the utility submits its IRP filing (either its major review or annual update) and it takes more than a year for the Commission to approve the utility's IRP filing, is it the position of the CA that the utility should still file an annual update of its 5-year Implementation Plan even though the Commission has not yet approved its IRP filing?

RESPONSE: Yes.

- b. If the answer to part a is "yes", should the utility's annual update be an update of the previously approved 5-year Implementation Plan, or an update of the most recently filed (but not approved) 5-year Implementation Plan? Please explain how the possible confusion that could arise as to which plan is to be approved be managed.

RESPONSE: The Annual Update should provide a current presentation on the Company's need for incremental resources (i.e., including any revisions to its peak load forecast, contributions from existing and committed new resources, and any other factors that affect its need, as broadly defined in the response to HECO/CA-IR-52). It should also present its current plan for procuring resources to address its current needs. If this current plan requires modification of an approved 5-year implementation plan, or modification of another application pending before the Commission, the utility should so indicate, and should provide appropriate support for its proposed changes. Presumably, the Commission would then

determine whether further proceedings to address the modifications are necessary.

In making any annual update if nothing has changed (or if any changes are of limited import), the Commission and stakeholders should be so informed. Likewise, they should know if the Company's needs have changed, or if it has determined that an alternate set of resources would better respond to its current needs. The Commission should not be put in the position of dedicating its resources to resolving an IRP application that has been rendered moot by more recent circumstances.

The Consumer Advocate notes that the routine provision of such information by the electric utilities can be expected to considerably accelerate both public participation processes and IRP proceedings before the Commission.

- c. If the answer to part b is "no", then please explain how the 5-year Implementation Plan would not be immutable and changes to the approved 5-year Implementation Plan be documented by the utility and approved by the Commission.

RESPONSE: Please see the response to Part a. above.

HECO/CA-IR-57. **Ref: CA SOP, page 56.**

Please provide a copy of the FERC Order in 108 FERC 61,081.

RESPONSE: The requested document may be obtained through the "eLibrary" page of the FERC's website.

HECO/CA-IR-58. **Ref: CA SOP, page 56.**

- a. Please provide more details regarding the incentive mechanism proposed by the CA in the last bullet (i.e., linkage between a utility's earned return and its performance in implementing competitive bidding).

RESPONSE: The Consumer Advocate does not have a specific proposal for an incentive mechanism linked to competitive bidding at this time. The Consumer Advocate recommends that the Commission announce in this proceeding its intent to consider introducing such mechanisms in future rate proceedings, in which utility earned returns typically would be addressed.

- b. What criteria would be used for determining if the utility is doing a good job in resource procurement?

RESPONSE: As noted above, the Consumer Advocate does not have a specific proposal for an incentive mechanism at this time. One approach that may merit further consideration is as follows. The Commission would have an oversight role relative to IRP processes and subsequent competitive bidding processes implemented by Hawaii's electric utilities. In this role, the Commission would have the opportunity to observe the degree to which each utility is successful in identifying and implementing best practices. The Commission could, based on such experience, make a reasoned judgment regarding whether, and to what degree each utility is doing "a good job" in resource planning and procurement. Based on such judgments, the Commission might determine whether an

upward or downward adjustment to a utility's rates would be warranted (perhaps calculated in terms of some increase or decrease within a pre-determined return on equity bandwidth). Other potential approaches to creating a balanced incentive mechanism likely exist.

- c. How would the increase and reduction in the utility's earned return be determined?

RESPONSE: Please see the response to Part a. above.

- d. Provide a description of the methodology, algorithm, or formula that the CA proposes as the basis for calculating the amount of the incentive applied.

RESPONSE: Please see the response to Part a. above.

- e. Would the incentive mechanism proposed be symmetrical?

RESPONSE: Yes.

HECO/CA-IR-59. **Ref: CA SOP, page 57.**

- a. Please describe in detail the relevance of Appendix 1 to the CA's SOP.

RESPONSE: As indicated on page 57 of the Consumer Advocate's Statement of Position, Appendix 1 is among three documents that are submitted to provide insight into approaches that can be implemented in response to utility needs of different types.

- b. Identify specific aspects of the document that the CA agrees with and disagrees with.

RESPONSE: The Consumer Advocate has not analyzed Appendix 1 to determine which aspects of the document it agrees with and disagrees with. However, Appendix 1 demonstrates how competitive bidding processes can be implemented as a resource procurement process that has its foundations in a well-considered, well-documented integrated resource plan. Section III. of Appendix I describes the "Resource Availability and Resource Needs" that should be considered as a precursor to initiating an "Acquisition Process" (as described in Section IV.).

HECO/CA-IR-60. **Ref: CA SOP, page 57.**

- a. Please describe in detail the relevance of Appendix 3 to the CA's SOP.

RESPONSE: As indicated on page 57 of the Consumer Advocate's Statement of Position, Appendix 3 is among three documents that are submitted to provide insight into approaches that can be implemented in response to utility needs of different types.

- b. Identify specific aspects of the document that the CA agrees with and disagrees with.

RESPONSE: The Consumer Advocate has not analyzed Appendix 3 to determine which aspects of the document it agrees with and disagrees with. As indicated in the response to part a above, the appendix was offered for illustrative purposes.

- c. Is the CA in agreement with the functions and the role for the Independent Observer in the Portland General Electric competitive bidding process?

RESPONSE: Please see the response to Part b. above.

- d. Please provide the specifics regarding the role envisioned for an Independent Observer if different than the role provided in the Portland General Electric competitive bidding process.

RESPONSE: The Consumer Advocate does not envision a specific role for independent observers with respect to competitive bidding processes in Hawaii. There likely would be some solicitations for

which independent observers would be advisable, and others for which they would not. For those solicitations for which independent observers would be advisable, their roles likely would vary, depending on the circumstances of the electric utility and the solicitation.

HECO/CA-IR-61. **Ref: CA SOP, top of page 58.**

The CA appears to indicate that if a utility is to bid, it should be submitted by its own affiliate. On page 48, the CA stated that the utility's backstop proposal in the IRP would essentially be its bid in the competitive bidding process. Please clarify these two positions.

RESPONSE: The Consumer Advocate's Statement of Position (at 58) notes that self-dealing problems have been mitigated in some states by having utilities bid through their subsidiaries. The Consumer Advocate offers this observation of evidence of the requirements that public utility commissions have placed on bidders to limit self-dealing. It is the Consumer Advocate's position that, where an electric utility has an immediate need, it should identify a backstop proposal representing a "least cost" response to that need.

HECO/CA-IR-62. **Ref: CA SOP, page 59.**

- a. Given the CA's position on page 48-49 that the utility should design and develop the RFP and implement the process, is it the CA's position that the Oversight role identified in the FERC principles is not consistent with its position?

RESPONSE: The Consumer Advocate anticipates that each electric utility will be responsible for the design, development and implementation each of its competitive solicitation processes. It may engage (or accommodate, if externally identified or funded) others in these functions (such as an independent third-party monitor, overseer, or evaluator), in keeping with best practices and the circumstances of each solicitation.

- b. If the answer is that the Oversight role is consistent with the referenced CA position, please explain the consistency.

RESPONSE: The Consumer Advocate's position is that each utility should have overall responsibility to design, develop and implement competitive bidding processes to meet its needs. In some circumstances, it may be appropriate to engage a third-party in an Oversight role, in order to most effectively conduct an RFP process (consistent with best practices). Certain functions could be transferred to that third-party, but not the utility's overall responsibility.

HECO/CA-IR-63.

Ref: CA SOP, page 59.

The CA states "Where there are or can be competitive markets in which independent, third party providers can be tapped to obtain needed capacity and energy resources, utilities should avail themselves of those markets - unless there is some clear reason for expecting that the utility can better achieve its planning objectives (including cost minimization, etc.) without competitive bidding."

- a. Please identify, discuss and provide the basis for all the reasons that the CA believes fall into the category of a "clear reason for expecting that the utility can better achieve its planning objectives (including cost minimization, etc.) without competitive bidding". As part of the response please state whether not having sufficient time to establish a competitive bidding process (including developing the program specifics, rules, etc.) before a resource is needed by the utility would be such a "clear reason for expecting that the utility can better achieve its planning objectives (including cost minimization, etc.) without competitive bidding".

RESPONSE:

Section II.C. of the Consumer Advocate's Statement of Position presents a discussion of some of the factors that occasionally might diminish the value of competitive bidding in specific circumstances. The Consumer Advocate accepts that these factors might, depending on circumstances, rise to the level of "clear reasons for expecting that the utility can better achieve its planning objectives without competitive bidding." However, the Consumer Advocate is not able to identify "all" of the factors involved as such factors are dependent on the specific circumstances.

Note that the first of the factors presented, "The Urgency In Which The Resource Is Needed May Affect The Decision To Conduct A Competitive Bid Process," speaks to the issue of the time needed to implement an RFP process.

- b. Please identify all public utility commissions that impose such a showing on utilities and provide the reference to the applicable statute, regulation, rule or other authority that imposes such a requirement.

RESPONSE: The Consumer Advocate has not conducted a study of the public utility commissions that require utilities to present clear reasons for expecting that the utility can better achieve its planning objectives without competitive bidding. It is the Consumer Advocate's view that it would be prudent for electric utilities to tap into competitive markets offering capacity and energy resources, when such resources are needed. Likewise, it would be prudent for electric utilities to avoid doing so in those instances where they can show that "shopping around" in such manner for needed resources would be inadvisable.

The Consumer Advocate is aware of a number of public utility commissions that currently rely on competitive bidding processes. These include California, Connecticut, Maine, New Jersey, Oregon, and Washington, to name a few. Others, such as Arkansas and Oklahoma, are in the process of considering competitive bidding requirements. The Consumer Advocate assumes that each public utility commission that routinely relies on competitive bidding would be open to an argument addressing specific circumstances in which an RFP would not serve the public interest.

HECO/CA-IR-64. **Ref: CA SOP, pages 59-60.**

The CA lists seven bullet points concerning the guidelines that should be imposed if a utility is to submit a bid in its own solicitation.

- a. What does the CA mean by the term “guideline”? As part of the response, please state whether a “guideline” is a requirement that must be followed in every instance or whether there are situations where the “guideline” does not have to be followed.

RESPONSE: The Consumer Advocate recommends the seven bulleted items identified as guides to future actions by the electric utilities, and to the Commission in evaluating the reasonableness of an electric utility’s plans. There would be situations in which a guideline would not have to be followed; however, the Commission should expect the utility to justify any alternate approach. The first bulleted item makes clear that competitive markets should be tapped “unless there is some clear reason for expecting that the utility can better achieve its planning objectives (including cost minimization, etc.) without competitive bidding.”

- b. Please identify each public utility commission that has imposed all of these seven “guidelines” on utilities that want to submit a bid in their own solicitation and provide the reference to the applicable statute, regulation, rule or other authority that imposes such “guidelines”.

RESPONSE: The Consumer Advocate has not conducted a survey of the public utility commissions that rely on these seven guidelines. However, rules recently issued by the Georgia public utility commission offer

an example of steps to address competitive bidding in an environment in which the host utility or its affiliate might participate.

- c. For each bullet point, please provide (1) the basis for such a “guideline”, and (2) the public utility commissions that impose such a “guideline” on utilities.

RESPONSE: For the Consumer Advocate’s response to Part c.(2), please see the response to Part b., above. The response to Part c.(1) is as follows:

- Where there are or can be competitive markets in which independent, third party providers can be tapped to obtain needed capacity and energy resources, utilities should avail themselves of those markets – unless there is some clear reason for expecting that the utility can better achieve its planning objectives (including cost minimization, etc.) without competitive bidding.

Basis: Competitive bidding is the norm across industries where large investments in complex (i.e., multi-attribute products and services occur). Governments do it routinely (e.g., for major infrastructure contracts); industry does it routinely; even the HECO Companies’ affiliate, Renewable Hawaii, Inc. does it (i.e., where shareholder interests are at stake). Competitive bidding for power supplies and capacity resources has become the norm in many states. These

include (recently) California, Georgia, Louisiana and Florida; Arkansas and Oklahoma currently are considering such requirements. It should also be the norm in Hawaii's electric industry, and should be implemented for individual resource procurements unless there is a good reason to otherwise.

- In considering competitive bidding, a utility must fully evaluate the costs of directly providing a needed resource (i.e., absent competitive bidding from third-party providers). Only then will the Commission and stakeholders have a view of the benefits actually achieved through a given competitive bidding process. That is, where bid prices fall below the utility's costs, price benefits will result. If bid prices are not below the utility's costs, presumably the Commission would want to see strong evidence of "non-price" benefits in the competitively procured resource before approving any resulting contract. In the absence of demonstrable benefits from an RFP, the Commission may determine to direct the utility to proceed with developing its avoided unit.

Basis: The rationale for the guideline by which a utility must fully evaluate the costs of directly providing a needed resource (i.e., absent competitive bidding from third-party providers) is described within this bullet.

- When competitive bidding is to be implemented, an electric utility must anticipate that the process may fail, and thus must be prepared with a “backstop” plan (i.e., the specific resources that the utility would develop and put into ratebase if necessary to meet its service obligations). This backstop plan may be satisfied by the utility’s resource proposal(s) (see above).

Basis: Each electric utility provides an essential service and has a well-established obligation to provide reliable electric service.

- If a utility is allowed to compete directly in its own RFP (i.e., to offer a proposal that is compared against those of other bidders), in addition to incorporating stringent rules to protect against self-dealing in the design and implementation of its RFP, the utility’s proposal must be held the same performance, creditworthiness, and other evaluation standards as are applied to other bidders. This applies equally to any “avoided” resource that might set a threshold price in a competitive bid, thereby implicitly joining the solicitation. In addition, where a utility (or a related company) intends to submit one or more bids, the Commission should determine whether an outside observer is required.

Basis: A fair, competitive bidding process is impossible if the utility proposal is not obligated to meet the same performance, creditworthiness, and other evaluation standards as are applied to other bidders. An outside observer (or monitor, overseer or evaluator) may be needed to ensure the integrity of a competitive bidding process in which the utility (or an affiliate) is actively engaged as a bidder.

- If a utility is allowed to compete directly in its own RFP, the utility should be held to cost-based ratemaking (e.g., the traditional approach to ratebasing self-built generation facilities). Important ratepayer benefits will be lost if utilities that may enjoy a competitive advantage (for whatever reason) over third-party providers are permitted to price up to market.

Basis: Please see the response to HECO/CA-IR-35.

- If a utility is allowed to compete directly in its own RFP, the utility also should be held to terms that are consistent with the contractual terms (such as availability) to which it would have held a third party supplier acquired through the RFP. Otherwise, a utility's proposal will enjoy unfair advantages in the RFP.

Basis: Please see the discussion under the fourth bullet, above.

- If a utility is allowed to compete directly in its own RFP, the Commission should evaluate whether or not there is any reason to take action (perhaps through special rules), to ensure that the utility is not even perceived to be in a position to unduly influence the results of the solicitation.

Basis: Perception can be as important as reality in “poisoning” the results of a competitive bidding process. Ratepayers and Hawaii will lose if potential bidders with resource options that could bring substantial ratepayer savings (and other benefits) choose not to bid because they perceive that the host utility will bias the results in favor of its own resource proposal.

HECO/CA-IR-65. **Ref: CA SOP, page 60, 1st bullet at top of the page.**

Should the utility's costs to prepare a "backstop" plan as a contingency against the failure of a competitive bidding process be added to the cost of the winning bid? Please explain.

RESPONSE: No. An electric utility must prepare a resource plan to address its emergent needs as a basic utility function in keeping with its obligation to provide reliable service. Such costs are fully independent of competitive bidding processes, which ultimately might yield more beneficial resource options. Thus, the costs to prepare a backstop plan should be considered as a normal cost of providing electric utility service, and should be treated accordingly.

HECO/CA-IR-66. **Ref: CA SOP, page 60, second bullet at the top of the page.**

- a. Is it the CA's position that the utility's bid should be evaluated based on the same price and non-price criteria as other bidders?

RESPONSE: Yes. Moreover, all resource options (utility and otherwise) should be evaluated on the basis of how well they would respond to the utility's incremental resource needs.

- b. Is it the CA's position that an outside observer is required only when a utility is bidding on its own RFP? Please explain.

RESPONSE: Please see the response to HECO/CA-IR-60, Part d.

HECO/CA-IR-67.

Ref: CA SOP, first full paragraph on page 63.

The statements in this paragraph suggest that the identified bidding processes (RPS vs reliable resources for load) differ.

a. Is it the CA's position that such processes differ?

RESPONSE:

The Consumer Advocate's Statement of Position (at 63) is intended to indicate that the information that may be required of bidders in an RFP addressing RPS requirements may differ from the information required of bidders in an RFP focused on improving system reliability. Bid evaluation processes also could differ.

i. If the response to part a is "yes", would these processes be part of an all-source bidding process with separate criteria and requirements or would they effectively be separate targeted competitive bidding processes? Please explain your response.

RESPONSE:

The Consumer Advocate has not developed a position regarding whether resources to improve system reliability and resources procured to meet RPS requirements should be pursued through all-source bidding. Under some circumstances, it may represent an ideal approach; however, the Consumer Advocate accepts that there may be practical limitations to such approach. Each electric utility should consider the matter if and when it arises, and should make a proposal consistent with best practices.

ii. If the response to part a is "no", please explain why the CA believes that these processes do not differ.

RESPONSE:

Please see the response to Part a., above.

HECO/CA-IR-68. **Ref: CA SOP, page 64, second paragraph.**
Please define in detail the CA's meaning of the term "transparent
'to the market.'"

RESPONSE: Bidding processes are most likely to be fair, in both perception and fact, if the actions by which bids are evaluated and winners selected are visible to outside observers. This goal would best be met, at least in concept, if bidders and any other interested persons were free to sit in the room with bid evaluators and during final bid selection and negotiations. Of course, this is not feasible. Accordingly, the Consumer Advocate recommends that best practices be employed to design solicitations that strike a balance between "transparency" and the necessities of conducting bid evaluations and related decision processes where quantities of confidential information may be involved.